

**E-Mail Request for Emergency Relief**

1 Case Number: 06 -cv- 105 -SLR

2 Check the box that applies:

- ✓ Requesting a teleconference with the parties and the court  
Requesting an in-person conference with the parties and the court  
Requesting either of the above listed options at the court's determination

3 BRIEFLY describe the reason for this **emergency** request.

During a hearing on December 20, 2006, the Court allowed document discovery to go forward with a completion date of May 8, 2007 and scheduled a follow-up status/scheduling conference for May 15. While Tellme appears to be cooperating in document production, Tellme refuses to exchange Rule 26 initial disclosures and to participate in a Rule 26(f) conference until late April. Nuance believes that timely initial disclosures and a Rule 26(f) conference would facilitate efficient document production by allowing the parties to reach agreement on issues such as a protective order and e-discovery. Thus, Nuance respectfully asks the Court to order the parties to serve their initial disclosures and hold a Rule 26(f) conference on or before January 31, 2007. Of course, if Your Honor would rather have a teleconference to discuss these matters, Nuance is available at the Court's convenience.

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\*Any text added beyond the limits of this space will be disregarded by the court

4 Name of opposing counsel contacted about this request: Jack B. Blumenfeld

5 Response of opposing counsel to this request.

6 Name of local counsel making this request: Gregory E. Stuhlman (#4765)

7 Today's Date: January 22, 2007

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☐ A teleconference will be held on \_\_\_\_\_ to be coordinated and initiated by \_\_\_\_\_

☐ An in-person discovery conference will be held on \_\_\_\_\_

☒ Other: *So long as Tellme confers about protective order and e-discovery issues, as represented by counsel, the court declines to order the parties to conduct a full-blown Rule 26(f) conference, in light of the approach the court is taking in this case and until the arbitral decision has been rendered.*

**Opposing Counsel's Response to E-Mail Request for Emergency Relief**

1. Case Number: 06-cv-105 -SLR
2. BRIEFLY state your response to the **emergency** request made by opposing counsel:

At the December 20, 2006 hearing, the Court decided to take "baby steps" to "take this [case] up to document production . . . and then . . . meet with you again . . . to see where you are in terms of the [April] arbitration and see . . . what the next step should be" (at 45). The Court scheduled a status conference for May 15, 2007. Tellme will be prepared to meet and confer with Nuance about protective order and document production issues, including e-discovery, after each side has provided written responses to document requests (in February or early March). Nuance's "emergency" request to open discovery further by requiring the parties to hold a Rule 26(f) conference is a rehash of earlier arguments, and should be denied at this time. Tellme will be prepared to hold a Rule 26(f) conference in advance of the May 15 conference, after certain key issues have been resolved in the arbitration.

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\*Any text added to beyond the limits of this space will be disregarded by the court.

3. Name of local counsel submitting this response: Rodger D. Smith II
4. Today's Date: January 23, 2007

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